

Town of North Smithfield Planning Board

Kendall Dean School, 83 Green Street

Thursday, October 1, 2009, 7:00 PM

The Chair called the meeting to order at 7:00 pm.

1. Roll Call

Present: Joe Cardello, Scott Gibbs, Alex Biliouris, Dean Naylor, Stephen Vowels. Absent: Bruce Santa Anna, Gene Simone. Also present were Town Planner Bob Ericson and Town Solicitor Rick Nadeau.

2. Approval of Minutes – September 3, 2009

Mr. Biliouris made a motion to approve the minutes of September 3, 2009, as corrected. Mr. Naylor seconded the motion, with all in favor.

3. Development Plan Review

Applicant: Jehovah's Witnesses

Location: 1054 Victory Highway, Assessor's Plat 1, Lot 151,

Zoning: Rural Agricultural (RA-65)

Mr. Ericson stated that at the previous meeting the Board had approved the plans, with the condition that the height of the fence around the air conditioning unit be raised. The applicant has

resubmitted the plans, with this change shown.

Mr. Gibbs asked if the applicant had been in touch with the abutters with regard to planting screening as discussed at the last meeting. Attorney John Shekarchi, representing the applicant, stated that the dialogue has been started and the applicant is honoring the agreement to provide screening for the abutters. The applicant will continue to work with the abutters.

Mr. Vowels asked about two issues related to traffic. One was whether or not the DOT had responded to the Town Administrator's request for signs along the road. The other was whether there will be any "No Parking" signs along the road, as had been mentioned during the hearing. The Chair responded that the Town Administrator's request is a completely separate issue, distinct from this application, and that the DOT determines whether or not signs are warranted and they review this as part of the applicants' submission. Signs along a state highway are not determined by the Planning Board.

Mr. Biliouris made a motion to approve the application, as presented on the final development plan, as shown on the latest submitted plans (revision dated September 19, 2009). Mr. Vowels seconded the motion. Planning Board vote was as follows: AYE: Mr. Cardello, Mr. Vowels, Mr. Gibbs, Mr. Naylor, Mr. Biliouris. Motion passed with a vote of 5-0.

**4. Dowling Village Phase II & III – Preliminary Plan Public Hearing
Major Land Development Project- Site Plan Review**

Also reviewing project impacts for the whole project, Phases I-IV

Applicant: Bucci Development, Inc. - Brian Bucci

Location: 120 Eddie Dowling Highway/146A

**Assessor's Plat 13 lots 18, 20, 21, 44, 53, 76, 111, 112, 123 &
143 and Plat 21 lots 25, 26, 29, 30, 31, 32, 50, 58, 61, & 71**

**Zoning: Professional Services (PS), Business Highway (BH), &
Rural Agricultural (RA)**

**(Continued from Jan. 8, & 15; Feb. 12, & 26; Mar. 12, & 19; April
9, 23 & 30; May 14; June 4, 11 & 25; July 2, 16 & 23; Aug. 13, Sep 3 &
17, 2009)**

**Mr. Biliouris was recused for this application. Attorney Matthew Shaw
addressed the Board for the applicant, stating that they are still
waiting for the DEM permit. He requested a continuance of the
hearing to October 15, 2009 and an extension of the decision date to
November 13, 2009.**

**Mr. Naylor made a motion to extend the decision date to November
13, 2009. Mr. Vowels seconded the motion, with all in favor (Cardello,
Naylor, Vowels, Gibbs). Mr. Vowels made a motion to continue the
hearing to October 15, 2009. Mr. Naylor seconded the motion, with all
in favor (Cardello, Naylor, Vowels, Gibbs).**

The Board called a 5-minute recess at 7:20 pm. Mr. Naylor called the meeting back to order at 7:25 pm.

5. Liz Development – Vincent Mesolella

Planning Board consideration and vote on pulling Phase II bond

Request to extend time to record Phase II final plan

Mr. Biliouris rejoined the Board for this application and the remainder of the meeting. Mr. Cardello recused himself from this hearing. Vice Chair Naylor led the meeting for this portion of the meeting.

Attorney Matthew Shaw asked for a continuance on both items (consideration and vote on pulling the Phase II bond and the request to extend the time to record the Phase II final plan). He stated that Mr. Mesolella had been involved in negotiations with the Town. Mr. Mesolella contends that the Town was to have taken certain measures to prepare the road bed prior to the developer installing the top coat. Mr. Mesolella said that the Town did not do this preparation, but the developer did the work instead. Because of this, Mr. Mesolella has requested payment from the Town to reimburse him for the cost incurred in preparing the road bed. Mr. Shaw gave the Board copies of the January 2, 2009 minutes for their review. This issue was discussed at that meeting. These minutes have also been submitted to the Town Solicitor, along with an invoice for work that the developer did in preparing the road bed. Mr. Shaw requested a continuance to October 15, 2009.

Mr. Vowels asked when this information was submitted to the Town Solicitor. Mr. Shaw replied that it had been submitted to the Town Planner and Town Solicitor by email earlier today (October 1, 2009).

Mr. Biliouris asked that if the developer did the road bed preparation work and if this is what caused the problems, then the issues with the road are due to the work done by the developer. Mr. Nadeau responded that he does not know specifics about the road repair. He said he did review the minutes submitted by email earlier in the day. It is his opinion that there is nothing in the minutes that binds the Town to do anything with regard to the prep work. Mr. Mesolella refuses to work with the Town until this issue is settled, but Mr. Nadeau stated there is no issue to resolve. At this point, the Town has met with Mr. Mesolella's attorneys several times and there is no need to continue this matter. The Board has enough information to make a decision. However, it is the Board's prerogative to continue this matter if they feel they need more time to review the information.

Mr. Biliouris stated that he is still trying to get to the bottom of the cause of the road problems. Mr. Nadeau stated that in August 2008 an improvement plan was agreed upon between the Town and the developer. This plan recognizes that corrective work needs to be done.

Mr. Vowels made a motion to pull the bond for Phase II, in the amount

of \$131,494. Mr. Gibbs seconded the motion. Roll call vote was as follows: AYE: Gibbs, Naylor, Biliouris, Vowels. Motion passed, with a vote of 4-0.

6. Sayles Hill Estates – Major Subdivision - Preliminary

Applicant: Andre E. Leblanc of Korel Realty, LLC

Location: Korel Drive, Rue de St. Jude Extension & Monty Drive

Assessor's Plat 17, Lots 117 & 163, Zoning: Suburban Residential (RS-40)

(Continued from Sep 3, 2009)

Mr. Ericson updated the Board as to the status of the application. The plans were sent out for peer review, comments were sent to the applicant's engineer, and revisions were made based on these comments. As a result, the plans now show changes in the erosion control plan (hay bales added) and the drainage structure, and the plans now include locations of street signs (including stop signs).

Mr. Biliouris asked if anything was added with regard to safety issues on Iron Mine Hill Road. This was not addressed in the changes to the plan. The Board discussed this issue with Mr. Nadeau. Mr. Nadeau stated that if the area is sufficiently outside of the subdivision, the issue should be referred to DPW for review. The Chair agreed that the Board should not impose the burden on the applicant, but believes it worthy of follow-up with DPW. Mr. Ericson stated that he would do so.

The Board also discussed street lighting in the subdivision. The Town is currently in the process of shutting off street lights in order to save money. According to the policy of this process, the street lights should be maintained at intersections and horizontal curve points, but can be eliminated on straight-aways. Therefore, only two lights would be necessary. However, in keeping with the subdivision regulations, three lights are shown on the plans. The options the Board discussed were eliminating one of the lights, putting in just the base of the third light, or constructing the three lights as per subdivision regulations, and giving the homeowners the option of paying for the cost of turning the light on. The Board decided that constructing three lights was the best course of action.

The applicant's engineer Joshua Rosen informed the Board that the applicant is currently working on a draft document of the Homeowners' Association agreement. This document will include language that puts the burden of the drainage system maintenance on the homeowners. He stated that he would have it ready before Final Plan approval. The Board discussed this, especially with regard to assuring that the maintenance is completed and that it is done by a competent contractor. Mr. Ericson stated that the subdivision regulations should be revised to plan for this for future subdivisions. The maintenance and the annual reporting system should be regulated in a way in which it will be easy for the Town to follow up.

The Chair had concerns with the construction, especially on the drainage system, due to the water table. He asked if they could require construction inspections. Mr. Ericson stated that they will hold a pre-construction meeting and outline everything that must be addressed and documented during the construction process.

The Chair also asked that catch basins be installed rather than the proposed manholes. He also asked for a wooden guardrail to be installed around the cul-de-sac, and he requested that the access to the detention pond be improved for vehicle access. Mr. Rosen agreed to all of these changes.

Finally, the Board discussed reducing the width of the pavement to 28', instead of 30'. Mr. Ericson stated that in the future, the RI DEM will be pressing towns to reduce pavement, and stated that 28'-wide roads are both in keeping with good planning practice and reduction of stormwater runoff. He informed the Board that the fire marshal had no problem with this in regard to access for emergency vehicles.

Mr. Biliouris made a motion to approve the applicant's request on a waiver of the street width, to be reduced to 28' in any portion of the road that is currently shown as 30'. Mr. Gibbs seconded the motion. Planning Board vote was as follows: AYE: Mr. Vowels, Mr. Gibbs, Mr. Naylor, Mr. Biliouris. NO: Mr. Cardello. Motion passed, with a vote of 4-1.

Mr. Gibbs made a motion to approve the preliminary plans for the major subdivision, with the following conditions:

- 1) a Neighborhood Association document that meets the concept requirements of the Town's Solicitor will be drafted,**
- 2) catch basins will be installed instead of two manholes,**
- 3) a wooden guardrail will be installed around the cul-de-sac,**
- 4) access to the detention pond will be improved for vehicles,**
- 5) a wired 2-phase light system will be installed per regulations and lights will be turned on in a manner consistent with Town policy as defined in a memo by the Public Safety Committee and executed by the Police Department, and**
- 6) that road widths be changed to 28' in the Final Plan for areas where they are shown as 30'.**

Mr. Vowels seconded the motion. Planning Board vote was as follows: AYE: Mr. Cardello, Mr. Naylor, Mr. Gibbs, Mr. Biliouris, Mr. Vowels. Motion passed, with a vote of 5-0.

7. Recommendation on Zoning Change: 21 Main St, Assessor's Plat 4, Lot 30,

Request to remove existing restrictions for professional and medical office use only

Mr. Ericson explained to the Board that Frank Jacques owns a four-unit office condo at 261 Main Street, but only two units are

occupied. He wanted a 2001 use restriction removed in order to allow retail. Under current zoning, one unit with no more than 375 square feet of retail space would fill the available parking. Attorney Joseph Raheb revised the request to allow retail by special use permit, which is consistent with the Comprehensive Plan.

Mr. Biliouris asked about the septic system and whether it was adequate to accommodate other uses. Mr. Ericson stated that this is an issue to be considered by the Zoning Board when the applicant applies for a Special Use Permit. The Board discussed other uses that may prove problematic, using the example that if a special use permit is granted for a small florist, it may at some point be occupied by a large florist business. Mr. Nadeau pointed out that the size of the space would limit how big the business could be, and that the Zoning Board will also stipulate things such as number of employees allowed. The Planning Board has no control of these issues.

Mr. Naylor asked for clarification that what is being requested this evening by the applicant. Mr. Ericson stated that they are looking for the Planning Board's recommendation that if the Town Council chooses to remove the restriction on the property, the change would be consistent with the Comprehensive Plan.

Mr. Vowels made a motion to forward the request to the Town Council with the recommendation that the requested change is consistent with the Town'

Mr. Naylor made a motion to adjourn at 8:40 pm. Mr. Vowels seconded the motion, with all in favor.